

Court No. - 8

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13092 of 2024

Applicant :- Ishwar Dutt @ Ishwar Dutt Mishra

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Home Lko

Counsel for Applicant :- Richa Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Jaspreet Singh,J.

1. Heard learned counsel for the applicant and learned AGA for the State-respondent.
2. This bail application has been moved on behalf of the applicant for grant of bail, in Case Crime No.519 of 2019, under Section 3(1) of the U.P. Gangsters and Anti Social Activities (Prevention) Act, 1986, Police Station- Inayat Nagar, District- Faizabad/Ayodhya.
3. The submission of the learned counsel for the applicant is that the applicant has been falsely implicated in in the instant case. It is further urged that in the gang chart only one case has been shown against the applicant, wherein he has been enlarged on bail and copy of the order has been brought on record as Annexure No.3 of the application. It is also submitted that the other two co-accused, namely, Ramesh Dutt Mishra and Amardeep Mishra have been enlarged on bail vide order dated 23.12.2022 passed by a co-ordinate Bench of this Court in Criminal Misc. Bail Application Nos.15234 of 2022. It is further urged that the applicant is not member of any gang nor he is its leader. The applicant in compliance of Section 19 of the Act, 1986 has filed his supplementary affidavit stating that after granting bail, he shall not involve himself or indulge in any criminal activity. In such circumstances, the applicant be enlarged on bail.
4. Learned AGA has vehemently opposed the bail application, however, could not dispute the fact that one case, which has been mentioned in the gang chart, in that case the applicant has been enlarged on bail. It has also not been disputed that the applicant is not in a position to influence any witness or tamper with any evidence. More so, a supplementary affidavit has been filed on behalf of the applicant that he shall not indulge in any criminal activity after being enlarged on bail.
5. Considering the rival submissions, the facts and circumstances of the case and the material available on record as well as considering the nature of allegations and accusation

against the applicant, the severity of the punishment if convicted and the period of incarceration as well as the fact that no apprehension has been expressed by the learned AGA that the applicant is at the risk of fleeing justice or that he would tamper with evidence or influence any witness as well as noticing that the applicant has been in jail since 29.06.2019, hence, at this stage, without expressing any opinion on the merits of the case, this Court is of the view that the applicant is entitled to be released on bail.

6. Let the applicant- **Ishwar Dutt @ Ishwar Dutt Mishra** involved in the aforesaid case be released on bail on his furnishing a personal bond with two reliable sureties each in the like amount to the satisfaction of the court concerned.

7. At the time of executing required sureties the following conditions shall be imposed in the interest of justice.

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court, absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

(v) The applicant shall neither influence any witness nor tamper with any evidence after his release.

Order Date :- 20.12.2024

Ashutosh